

**REMARKS**

The Office Action dated January 26, 2006 has been carefully considered. Claims 3-26 are pending. The above amendments and the following remarks are presented in a sincere attempt to place this Application in condition for allowance. Claims 3, 8-9, 16-17, 22, and 24-26 have been amended in this Response. Reconsideration and allowance are respectfully requested in light of the above amendments and the following remarks.

Claims 5 and 7-9 stand objected to because acronyms such as BTS, RDCCCH, RSCACH, and MS are not explained at least once in the claims to avoid confusion. Claim 3 has been amended to describe a base transceiver station (BTS) and a reverse dedicated congestion control channel (RDCCCH). Claim 8 has been amended to describe a reverse shared channel assignment channel (RSCACH). Claim 9 has been amended to describe a mobile station (MS). Accordingly, Applicants respectfully request that the objections to Claims 5 and 7-9 be withdrawn.

Claims 10, 11, 14-16, and 20-21 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, amended Claim 9 comprises the limitation "if the reduced active set comprises more than one member," and dependent Claims 10-11 comprise the limitation "if the number of members of the reduced active set is equal to one." Applicants respectfully submit that these two limitations are not contradictory, but are alternative limitations. Claim 9 describes "means for extracting information employable to determine a set of members of a reduced active set." Accordingly, the number of members of the reduced active set can be equal to one or a number greater than one. Claim 9 describes the behavior of the MS if the number of members of the reduced active set is more than one, and Claims 10-11 describe the behavior of the MS if the number of members of the reduced active set is equal to one. Therefore, these limitations

are not contradictory. Claims 14-16 depend upon and further limit Claims 9-11. Hence, for at least the aforementioned reasons these claims should also be allowable.

Claim 16 has been amended to delete the term “the” from “the two data rates.”

Specifically, amended Claim 17 comprises the limitation “if the number of members of the reduced active set is greater than one,” and dependent Claim 20 comprises the limitation “if the number of members of the reduced active set is equal to one.” Applicants respectfully submit that these two limitations are not contradictory, but are alternative limitations. Claim 17 describes “generating a reduced active set.” Accordingly, the number of members of the reduced active set can be equal to one or a number greater than one. Claim 17 describes the behavior of the MS if the number of members of the reduced active set is more than one, and Claim 20 describes the behavior of the MS if the number of members of the reduced active set is equal to one. Therefore, these limitations are not contradictory. Claim 21 depends upon and further limits Claims 17 and 20. Hence, for at least the aforementioned reasons these claims should also be allowable. Accordingly, Applicants respectfully request that the objections to Claims 10-11, 14-16 and 20-21 be withdrawn.

Claims 3, 5-6, and 9-26 stand rejected under 35 U.S.C. § 102(e) in view of U.S. Patent 6,516,196 to Chen et al. (“Chen”). Insofar as these rejections may be applied against the amended claims, they are deemed overcome.

Claim 3 has been amended to clarify a distinguishing feature of the claimed invention. Specifically, Claim 3 describes “*wherein each BTS of the reduced active set transmits control information over a reverse dedicated congestion control channel (RDCCCH) if the reduced active set comprises more than one BTS.*” Support for this amendment can be found, among other places, page 11, line 27 to page 12, line 4 of the original Application.

Chen does not teach, suggest, or disclose these features of the claimed invention. Chen discloses a method of using an optimal transmission set of BTSs and assigning proper data rates to utilize the radio resources. The method detects relative signal strengths at a particular MS from the BTSs in the active set. Subsequently, reduced active sets are created that are possible combinations of BTSs in the active set that serve the MS. Chen does not disclose that each BTS of a reduced active set transmits control information over an RDCCCH. In the claimed invention, in the situation where there is a reduced active set of multiple BTSs having the capability and opportunity to communicate with an MS, congestion may occur. By allowing each of the BTSs within a reduced active set to transmit control data to an MS, the most efficient link (for the network and the MS) can be determined and selected. In Chen the MS only detects the signal strength of the BTSs to create the reduced active set, whereas the claimed invention uses control information from the BTSs after the reduced set has been determined. Therefore, the claimed invention provides a more efficient system for selecting a BTS to establish a communications link with an MS that Chen does not provide.

In view of the foregoing, it is apparent that the cited references do not disclose, teach, or suggest the unique combination now recited in amended Claim 3. Applicants therefore submit that amended Claim 3 is both clearly and precisely distinguishable over the cited reference in a patentable sense. Accordingly, Applicants respectfully request that the rejection of Claim 3 under 35 U.S.C. § 102(e) in view of Chen be withdrawn and that amended Claim 3 be allowed.

Claims 5-6 depend upon and further limit amended Claim 3. Hence, for at least the aforementioned reasons, these Claims should be deemed to be in condition for allowance. Accordingly, Applicants respectfully request that the rejections of dependent Claims 4-8 also be withdrawn.

Claims 9, 17, 22, and 24-26 have been amended to clarify a distinguishing feature of the claimed invention in a similar manner to amended Claim 3. Specifically, the claimed invention comprises a feature that each BTS of a reduced active set transmits control information if the number of members of the reduced active set is greater than one. Hence, for at least the aforementioned reasons that amended Claim 3 is deemed to be allowable, amended Claims 9, 17, 22, and 24-26 should be deemed to be in condition for allowance. Accordingly, Applicants respectfully request that the rejections of amended Claims 9, 17, 22, and 24-26 under 35 U.S.C. § 102(e) in view of Chen be withdrawn and that amended Claims 9, 17, 22, and 24-26 be allowed.

Claims 10-16 depend upon and further limit amended Claim 9. Claims 18-21 depend upon and further limit amended Claim 17. Claim 23 depends upon and further limits amended Claim 22. Hence, for at least the aforementioned reasons, these Claims should be deemed to be in condition for allowance. Accordingly, Applicants respectfully request that the rejections of dependent Claims 10-16, 18-21, and 23 also be withdrawn.

Claim 4 stands rejected under 35 U.S.C. § 103(a) in view of Chen and U.S. Patent 5,999,522 to Rohani. Insofar as this rejection may be applied against the amended claims, it is deemed overcome. Claim 4 depends upon and further limits amended Claim 3. Hence, for at least the aforementioned reasons, this Claim should be deemed to be in condition for allowance. Accordingly, Applicants respectfully request that the rejection of dependent Claim 4 be withdrawn.

Claims 7-8 stand rejected under 35 U.S.C. § 103(a) in view of Chen and Admitted Prior Art. Insofar as these rejections may be applied against the amended claims, they are deemed overcome. Claims 7-8 depend upon and further limit amended Claim 3. Hence, for at least the aforementioned reasons, these Claims should be deemed to be in condition for allowance. Accordingly, Applicants respectfully request that the rejection of dependent Claims 7-8 be withdrawn.

Applicants have now made an earnest attempt to place this Application in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicants respectfully request full allowance of Claims 3-26.

Applicants do not believe that any fees are due; however, in the event that any fees are due, the Commissioner is hereby authorized to charge any required fees due (other than issue fees), and to credit any overpayment made, in connection with the filing of this paper to Deposit Account No. 50-0605 of CARR LLP.

Should the Examiner deem that any further amendment is desirable to place this Application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,

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